

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION	
001a. memo	Anthony Lake and Lloyd Cutler to POTUS re: Authority to Use Force in Haiti (1 page)	09/14/1994	P5	1291
001b. report	re: Authority of the President to Use Force in Haiti (2 pages)	ca. 09/1994	P5	1292
001c. memo	Alan Kreczko to Lake re: Authority of the President to Use Force in Haiti (1 page)	09/12/1994	P5	1293

COLLECTION:

Clinton Presidential Records
NSC Records Management
([Haiti and Lake])
OA/Box Number: 213

FOLDER TITLE:

9407276

Rob Seibert
2006-0187-F
rs197

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

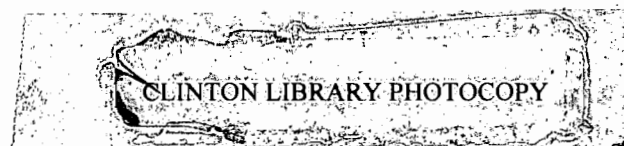
- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

CLINTON LIBRARY PHOTOCOPY

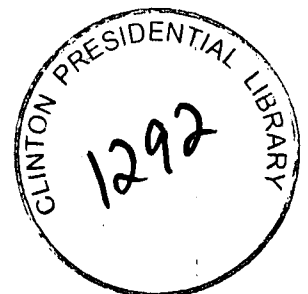
Authority of the President to use Force in Haiti



- The President has the constitutional authority to use military force to remove the de facto leadership in Haiti without specific congressional authorization.
- The President is the Commander in Chief under Article II, section 2 of the Constitution. This authority includes broad power to deploy the Armed Forces, including into situations involving potential hostilities, without specific congressional authorization.
- Presidents have consistently acted on this basis.
- Early examples include the war with Tripoli (1801) under President Jefferson; the intervention in China during the Boxer Rebellion (1900) under President McKinley; the interventions in Haiti (1915), the Dominican Republic (1916), Mexico (1917) and Russia (1918) under President Woodrow Wilson; and the intervention in Nicaragua (1926) under President Coolidge.
- Recent examples include President Truman in Korea (1950); President Johnson in the Dominican Republic (1965); President Reagan in Grenada (1983), Beirut (1982), and the Persian Gulf re-flagging operation (1987); President Bush in Panama (1989) and Somalia (1992); and President Clinton in Bosnia (1993).
- A U.S. military operation in Haiti would involve far less use of force than several of these examples. It is well within the President's constitutional authority and is consistent with past practice.
- We have important national interests in Haiti: promoting human rights and democracy in our hemisphere; immigration concerns; the safety of U.S. nationals; and the enforcement of Security Council decisions.
- The operation is likely to involve low intensity and short conflict. Given the consent of President Aristide and the limited capability of the Armed Forces of Haiti, such action does not intrude upon the power of Congress to declare war.
- Presidential action in this case does not present the difficult constitutional issues that unilateral Presidential action could have presented in a major military action like the Gulf War.



- Congress itself has also recognized in the DOD Appropriations Act, 1994, that there are some situations in which force could be used in Haiti without prior congressional authorization. While reserving whether this statute impinges on the President's constitutional powers, any action taken by the President can be taken consistent with the statute by filing the report referred to in subsection (c).
- The structure of the War Powers Resolution presupposes the existence of unilateral Presidential authority to deploy armed forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." 50 U.S.C. § 1543(a)(1). We would intend to report to Congress "consistent with the War Powers Resolution", as we have done in the past. (This Administration has not yet had to face the provision of the War Powers Resolution which purports to require withdrawal of forces after 60 days involvement in hostilities, absent congressional authorization. The provision raises difficult Constitutional issues.)
- U.N.S.C. Resolution 940 authorizes Member States to use all necessary means to remove the de facto regime and establishes that action by the U.S. would be consistent with international law.



NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

7276

Redo

9/12/94

ACTION

MEMORANDUM FOR ANTHONY LAKE

FROM: ALAN KRECZKO *AK*

SUBJECT: Authority of the President to use Force in Haiti

Sandy asked for a memo to the President concerning his authority to deploy forces into Haiti.

Lloyd Cutler feels strongly we should call the President's attention to the authorization Congress has already given in the DOD Appropriation Act, and that in the final hours we should submit the prior report called for in the Act, without conceding a legal obligation to do so, just as we now do under the War Powers Resolution. (I concur, although I would favor submitting the report earlier than a few hours before the operation). Lloyd has discussed this with Secretary Christopher who also concurs.

RECOMMENDATION

That you sign the memorandum at Tab I.

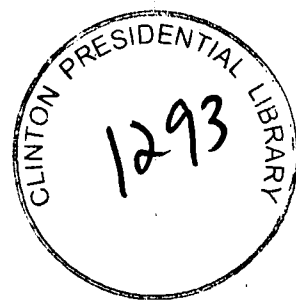
Attachment

Tab I Memorandum for the President

Tab A Legal Memorandum

Tab B DOD Appropriations Provision

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Anthony Lake et al. to POTUS re: Haiti-Report to Congress (2 pages)	09/16/1994	P5 1294

COLLECTION:

Clinton Presidential Records
NSC Records Management
([Haiti and Lake])
OA/Box Number: 213

FOLDER TITLE:

9407358

Rob Seibert
2006-0187-F
rs199

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

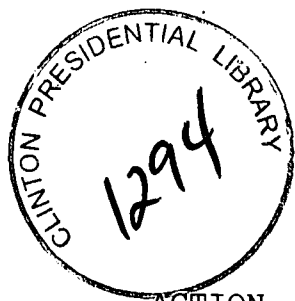
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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THE PRESIDENT HAS SEEN 9/19

7358

THE WHITE HOUSE
WASHINGTON
September 16, 1994

94 SEP 16 P4: 45

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
PAT GRIFFIN
LLOYD CUTLER *enc*

SUBJECT: Haiti -- Report to Congress

Purpose

To decide whether and when to submit to Congress a report on the action in Haiti.

Background

The DOD Appropriations Act of 1994 (Tab A) expressed the sense of Congress that you should not expend appropriated funds for military action in Haiti without express prior congressional authorization, except in three circumstances: (1) imminent danger to Americans; (2) vital national security interests at stake and no time to come to Congress; or (3) provision of an advance report to Congress addressing six specific issues (U.S. interests in Haiti; safety of U.S. forces; sufficiency of the military force deployed; objectives for the deployment; exit strategy; and cost).

We can satisfy the third exception, and we have prepared such a report on a contingency basis. The question is whether to submit it, and if so, when.

PROS:

- Position us to argue to the public that (1) Congress has recognized that a prior report makes prior congressional authorization unnecessary; and (2) we have not ignored Congress' role but instead acted consistently with its expressed request.
- While unlikely to dissuade those members actively pressing for a formal vote on a resolution of approval, it may provide a basis for some swing members to resist a vote.
- Would bolster our legal position, with outside critics and in the event of litigation, that you can act without further congressional authorization.

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cc: Vice President
Chief of Staff

- Can be done without conceding any legal obligation to report to Congress in advance of military operations. (The Executive branch has routinely provided reports to Congress "consistent with the War Powers Resolution" without conceding the constitutionality of the statute-imposed obligation to do so.)
- Provides another vehicle for us to get out in concise fashion our views on several key issues in Haiti of concern to the Congress and the American people relating to military action in Haiti.

CONS:

- Some Members of Congress will argue (as Mitchell did to you) that the language in the DOD Appropriations Act was not intended to give us a green light to act unilaterally; others will argue that submitting the report is a cheap attempt to avoid Congress' real interest, a vote.
- Could goad Congress to vote, although this risk can be minimized by controlling when the report is submitted.
- Even if the War Powers Report formulation ("consistent with") is followed in filing the DOD Appropriations report, such a report might be seen as undercutting our position that the President has independent constitutional authority to act.

We have alerted the offices of Senators Mitchell and Nunn and Representative Gephardt to the possibility we would be submitting the report. They have no objection.

If you agree we should submit the report, we recommend doing so the day preceding military action. (If you decide against submitting the report, we will nonetheless report to Congress within 48 hours of military action, consistent with the War Powers Resolution.)

Secretary Christopher and the Justice Department also favor submitting the report.

RECOMMENDATION

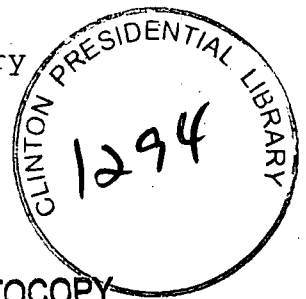
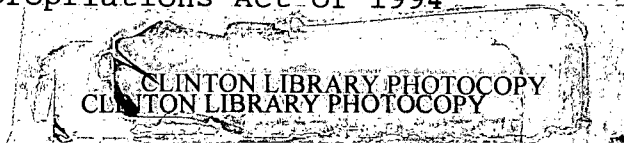
That you approve submitting the report prior to our military action.

Approve ☒

Disapprove ☐

Attachment

Tab A DOD Appropriations Act of 1994



PHOTOCOPY
WJC HANDWRITING

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Lawrence Rossin to Anthony Lake re: Talking Points for Telephone Call to Haitian President Aristide (partial) (1 page)	09/20/1994	P5 129 S.
001b. memo	Anthony Lake to POTUS re: Talking Points for Telephone Call to President Aristide of Haiti (1 page)	ca. 09/1994	P1/b(1)
001c. talking points	Telephone Call to Haitian President Jean-Bertrand Aristide (2 pages)	ca. 09/1994	P1/b(1)
001d. memo	Lake to POTUS re: Talking Points for Telephone Calls (1 page)	09/22/1994	P1/b(1)
001e. talking points	Telephone Call to Haitian President Jean-Bertrand Aristide (2 pages)	ca. 09/1994	P1/b(1)
001f. talking points	Telephone Call to U.S. Ambassador Bill Swing (1 page)	ca. 09/1994	P1/b(1)
001g. memo	[Duplicate of 001d] (1 page)	09/22/1994	P1/b(1)
001h. talking points	[Duplicate of 001e] (2 pages)	ca. 09/1994	P1/b(1)
001i. talking points	[Duplicate of 001f] (1 page)	ca. 09/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Records Management
([Haiti and Lake])
OA/Box Number: 481

FOLDER TITLE:

9407605

Rob Seibert
2006-0187-F
rs215

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

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7605

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

September 20, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

FROM: LAWRENCE G. ROSSIN *LR*

SUBJECT: Talking Points for Telephone Call to Haitian
President Aristide

The Memorandum to the President at Tab I provides talking points
for ~~his~~ phone calls to President Aristide ~~on Wednesday~~.

and Ambassador Swing.

RECOMMENDATION

That you sign the Memorandum to the President at Tab I.

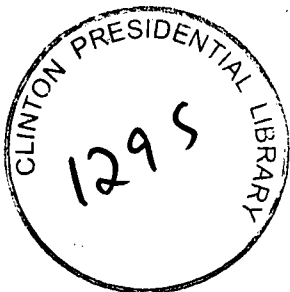
Attachments

Tab I Memorandum to the President
Tab A Talking Points

Larry
① please redo
to reflect
today's
statement
② do another
phone call
to *Smur*
Swing
(build him
up)

-letter?

②



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DECLASSIFIED
E.O. 12958, As Amended,
White House Guidelines, August 28, 1997
By *W* NARA, Date *10/7/08*
2006-0187-F